

TITLE III—USE OF ELECTRONIC RECORDS AND SIGNATURES UNDER FEDERAL SECURITIES LAW

SEC. 301. GENERAL VALIDITY OF ELECTRONIC RECORDS AND SIGNATURES.

Section 3 of the Securities Exchange Act of 1934 (15 U.S.C. 78c) is amended by adding at the end the following new subsection:

“(h) REFERENCES TO WRITTEN RECORDS AND SIGNATURES.—

“(1) GENERAL VALIDITY OF ELECTRONIC RECORDS AND SIGNATURES.—Except as otherwise provided in this subsection—

“(A) if a contract, agreement, or record (as defined in subsection (a)(37)) is required by the securities laws or any rule or regulation thereunder (including a rule or regulation of a self-regulatory organization), and is required by Federal or State statute, regulation, or other rule of law to be in writing, the legal effect, validity, or enforceability of such contract, agreement, or record shall not be denied on the ground that the contract, agreement, or record is not in writing if the contract, agreement, or record is an electronic record;

“(B) if a contract, agreement, or record is required by the securities laws or any rule or regulation thereunder (including a rule or regulation of a self-regulatory organization), and is required by Federal or State statute, regulation, or other rule of law to be signed, the legal effect, validity, or enforceability of such contract, agreement, or record shall not be denied on the ground that such contract, agreement, or record is not signed or is not affirmed by a signature if the contract, agreement, or record is signed or affirmed by an electronic signature; and

“(C) if a broker, dealer, transfer agent, investment adviser, or investment company enters into a contract or agreement with, or accepts a record from, a customer or other counterparty, such broker, dealer, transfer agent, investment adviser, or investment company may accept and rely upon an electronic signature on such contract, agreement, or record, and such electronic signature shall not be denied legal effect, validity, or enforceability because it is an electronic signature.

“(2) IMPLEMENTATION.—

“(A) REGULATIONS.—The Commission may prescribe such regulations as may be necessary to carry out this subsection consistent with the public interest and the protection of investors.

“(B) NONDISCRIMINATION.—The regulations prescribed by the Commission under subparagraph (A) shall not—

“(i) discriminate in favor of or against a specific technology, method, or technique of creating, storing, generating, receiving, communicating, or authenticating electronic records or electronic signatures; or

“(ii) discriminate in favor of or against a specific type or size of entity engaged in the business of facilitating the use of electronic records or electronic signatures.

“(3) EXCEPTIONS.—Notwithstanding any other provision of this subsection—

“(A) the Commission, an appropriate regulatory agency, or a self-regulatory organization may require that records be filed or maintained in a specified standard or standards (including a specified format or formats) if the records are required to be submitted to the Commission, an appropriate regulatory agency, or a self-regulatory organization, respectively, or are required by the Commission, an appropriate regulatory agency, or a self-regulatory organization to be retained; and

“(B) the Commission may require that contracts, agreements, or records relating to purchases and sales, or establishing accounts for conducting purchases and sales, of penny

stocks be manually signed, and may require such manual signatures with respect to transactions in similar securities if the Commission determines that such securities are susceptible to fraud and that such fraud would be deterred or prevented by requiring manual signatures.

“(4) RELATION TO OTHER LAW.—The provisions of this subsection apply in lieu of the provisions of title I of the Electronic Signatures in Global and National Commerce Act to a contract, agreement, or record (as defined in subsection (a)(37)) that is required by the securities laws.

“(5) SAVINGS PROVISION.—Nothing in this subsection applies to any rule or regulation under the securities laws (including a rule or regulation of a self-regulatory organization) that is in effect on the date of the enactment of the Electronic Signatures in Global and National Commerce Act and that requires a contract, agreement, or record to be in writing, to be submitted or retained in original form, or to be in a specified standard or standards (including a specified format or formats).

“(6) DEFINITIONS.—As used in this subsection:

“(A) ELECTRONIC RECORD.—The term ‘electronic record’ means a writing, document, or other record created, stored, generated, received, or communicated by electronic means.

“(B) ELECTRONIC SIGNATURE.—The term ‘electronic signature’ means information or data in electronic form, attached to or logically associated with an electronic record, and executed or adopted by a person or an electronic agent of a person, with the intent to sign a contract, agreement, or record.

“(C) ELECTRONIC.—The term ‘electronic’ means of or relating to technology having electrical, digital, magnetic, optical, electromagnetic, or similar capabilities regardless of medium.”

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title of the Senate bill was amended so as to read: “To facilitate the use of electronic records and signatures in interstate or foreign commerce.”

A motion to reconsider was laid on the table.

APPOINTMENT OF CONFEREES

Mr. BLILEY. Mr. Speaker, I ask unanimous consent that the House insist on its amendment to S. 761 and request a conference with the Senate thereon.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia? The Chair hears none, and without objection appoints the following conferees on S. 761: Messrs. BLILEY, TAUZIN, OXLEY, DINGELL, and MARKEY.

There was no objection.

GENERAL LEAVE

Mr. BLILEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on S. 761 and H.R. 1714, the bills just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 3896

Mr. HOBSON. Mr. Speaker, I ask unanimous consent to remove my name as a cosponsor of H.R. 3896.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

AUTHORIZING SPEAKER, MAJORITY LEADER, AND MINORITY LEADER TO ACCEPT RESIGNATIONS AND MAKE APPOINTMENTS NOTWITHSTANDING ADJOURNMENT

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that notwithstanding any adjournment of the House until Tuesday, February 29, 2000, the Speaker, majority leader, and minority leader be authorized to accept resignations and to make appointments authorized by law or by the House.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY, MARCH 1, 2000

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday, March 1, 2000.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

APPOINTMENT OF HON. CONSTANCE A. MORELLA TO ACT AS SPEAKER PRO TEMPORE TO SIGN ENROLLED BILLS AND JOINT RESOLUTIONS THROUGH FEBRUARY 29, 2000

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,

February 16, 2000.

I hereby appoint the Honorable CONSTANCE A. MORELLA to act as Speaker pro tempore to sign enrolled bills and joint resolutions through February 29, 2000.

J. DENNIS HASTERT,

Speaker of the House of Representatives.

The SPEAKER pro tempore. Without objection, the appointment is agreed to.

There was no objection.

APPOINTMENT OF MEMBER TO CANADA-UNITED STATES INTER-PARLIAMENTARY GROUP

The SPEAKER pro tempore. Without objection, and pursuant to the provisions of 22 U.S.C. 276d, the Chair announces the Speaker's appointment of